

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of
Revision of the Commission's Rules To Ensure
Compatibility with Enhanced 911 Emergency
Calling Systems
Request for Waiver by AT&T Wireless Services,
Inc.
CC Docket No. 94-102

ORDER

Adopted: October 2, 2001

Released: October 12, 2001

By the Commission: Chairman Powell issuing a separate statement; Commissioners Abernathy and Martin
issuing separate statements; Commissioner Copps concurring and issuing a statement.

I. INTRODUCTION

1. In this order, we approve an implementation plan proposed by AT&T Wireless Services, Inc.
(AT&T), subject to certain conditions, for providing enhanced 911 services on its Global System for
Mobile Communications (GSM)/ General Packet Radio Service (GPRS) network. Under this plan,
AT&T will be permitted additional time to deploy Enhanced Observed Time Difference of Arrival (E-
OTD) technology, its hybrid network- and handset-based solution for locating 911 callers throughout its
new GSM/GPRS network. The accuracy of its E-OTD technology must meet the Commission's rules for
network-based technologies immediately upon deployment and the stricter standards for handset-based
technologies by October 1, 2003. Further, we require AT&T to file Quarterly Reports concerning its
E911 implementation program, including both Phase I and Phase II deployments, to permit effective
monitoring and enforcement of its progress and performance in complying with the rules and the terms
and conditions of its plan. We find this alternative implementation plan is justified by the overall benefits
to public safety of AT&T's proposed solution, particularly its ability to deploy E-OTD concurrently with
deployment of its new GSM network, and therefore grant a temporary, conditional waiver of the
Commission's wireless E911 rules necessary to allow implementation of this plan.

2. With this Order, along with the companion wireless E911 orders adopted today, the
Commission clears the way for the start of actual deployment of E911 Phase II. The deployment plans
approved in these orders apply to carriers who serve more than 75 percent of all subscribers for wireless
phone service in the United States. Under these plans the major national carriers will begin deploying
technologies to locate wireless 911 callers within the next several months. They also should achieve
complete deployment of Phase II, in full compliance with the Commission's accuracy standards, in all
areas across the nation where 911 call centers are ready and able to use this information by the end dates
in the existing Commission rules - i.e., no later than December 31, 2005. These carriers must implement
Phase II in accordance with the terms of these approved schedules or they will be subject to enforcement
action by the Commission. The Quarterly Reports to be filed by these carriers will allow the Commission
to monitor the pace and overall progress of Phase I and Phase II deployment, and to facilitate the prompt
enforcement of the milestones and other requirements of the plans approved today.

3. Despite the substantial progress to date, especially given the groundbreaking nature of these technologies, much remains to be done to achieve the FCC's fundamental goal of having wireless E911 Phase II capabilities deployed throughout the country. All necessary participants – carriers, the public safety community, technology vendors, network equipment and handset vendors, local exchange carriers, and this Commission – must continue to work aggressively in the coming months and years to ensure the promise of these new life saving technologies becomes a reality.

## II. BACKGROUND

### A. Phase II Framework

4. Under Phase II of the Commission's wireless E911 rules, wireless carriers are required to provide the location of wireless 911 callers, a capability known as Automatic Location Identification (ALI).<sup>1</sup> In establishing those rules, the Commission sought to be technologically and competitively neutral, allowing any location technology to be used that can comply with specified accuracy, reliability, and deployment schedule requirements. For example, the rules provide that handset-based location solutions must provide the location of wireless 911 calls with an accuracy of 50 meters for 67 percent of calls and 150 meters for 95 percent of calls.<sup>2</sup> Carriers using a handset-based solution also must begin to offer one entry-level model with location capability no later than October 1, 2001 and must ensure that 95 percent of their customers have location capable handsets no later than December 31, 2005.<sup>3</sup>

5. For carriers choosing a network-based solution, the rules provide that the technology must report the location of wireless 911 calls with an accuracy of 100 meters for 67 percent of calls and 300 meters for 95 percent of calls.<sup>4</sup> A carrier using a network-based solution must provide ALI to 50 percent of its coverage area, or 50 percent of its population, beginning on October 1, 2001 or within 6 months of a Public Safety Answering Point (PSAP) request, whichever is later, and to 100 percent of callers within 18 months of that request or by October 1, 2002, whichever is later. Wireless carriers subject to the rules were directed to report their Phase II plans, including the technologies they plan to use, by November 9, 2000.<sup>5</sup>

6. During the course of the E911 proceeding, the Commission recognized that the E911 deployment schedule was aggressive in light of the need for further technological advancement. Nonetheless, the Commission predicted that ALI technologies would generally be available in sufficient time for carriers to comply.<sup>6</sup>

7. The Commission also recognized, however, that requests for waiver may be justified based on specific showings and discussed standards for such requests in the *E911 Fourth Memorandum Opinion and Order*.<sup>7</sup> In the *E911 Fourth Memorandum Opinion and Order*, we explained that we would expect

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<sup>1</sup> See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996). For additional information regarding the Commission's wireless E911 program, see <[www.fcc.gov/e911](http://www.fcc.gov/e911)>.

<sup>2</sup> 47 C.F.R. § 20.18(h)(2).

<sup>3</sup> 47 C.F.R. § 20.18(g).

<sup>4</sup> 47 C.F.R. § 20.18(h)(1).

<sup>5</sup> 47 C.F.R. § 20.18(i). See <[www.fcc.gov/e911](http://www.fcc.gov/e911)>, Wireless E-911 Phase II Automatic Location Identification Implementation, Reports From Wireless Carriers.

<sup>6</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, 17457-58 (2000) (*E911 Fourth Memorandum Opinion and Order*).

<sup>7</sup> *Id.*

requests for waiver to be specific, focused, and limited in scope, with a clear path to full compliance.<sup>8</sup> We also stated that carriers should undertake concrete steps necessary to come as close as possible to full compliance and should document their efforts, including the solutions they considered and why none could be employed in a way that complies with our Phase II rules. Finally, we stated that carriers should not expect to defer implementing a location solution if one is available and feasible.<sup>9</sup>

## B. Summary of AT&T's Request

8. In its Amended E911 Phase II Report,<sup>10</sup> AT&T stated that it planned to overlay a GSM/GPRS platform to its existing Time Division Multiple Access (TDMA) network. AT&T claimed that while this change would give AT&T's network higher speed data capabilities and its customers a wider array of mobile devices, the transition "seriously complicated" AT&T's plans regarding its location technology selection for Phase II.<sup>11</sup> AT&T stated that it intended to deploy E-OTD technology throughout its GSM network and indicated that it would make E-OTD available immediately upon deployment of its GSM network.<sup>12</sup> AT&T stated that it intended to seek relief from the rules once it had more information on its GSM deployment schedule and the performance and accuracy of the E-OTD technology.<sup>13</sup> As for its TDMA network, AT&T explained that it was in the process of investigating the use of E-OTD for its TDMA network, finding the preliminary analysis "promising," but stated that it was also exploring other network-based TDMA solutions through various field trials.<sup>14</sup>

9. On April 4, 2001, AT&T filed an E911 Phase II compliance plan and relief from the Commission's E911 Phase II rules.<sup>15</sup> Specifically, with respect to its new GSM network, AT&T requests that the Commission permit AT&T to deploy a hybrid network- and handset-based E-OTD technology. With respect to its selection of E-OTD location technology, AT&T claims that it faces circumstances similar to those of VoiceStream, whose waiver the Commission approved in 2000.<sup>16</sup> AT&T asserts that while E-OTD ultimately will meet and even exceed the Commission's accuracy requirements, E-OTD technology will not initially meet the Commission's accuracy rules for handset-based location technologies. Accordingly, AT&T requests relief from the location accuracy requirements for handset-based solutions set forth in section 20.18(h) of the Commission's rules to permit the deployment of E-OTD technology for AT&T's GSM network. AT&T asserts that it would provide E-OTD-compatible handsets to GSM customers when AT&T's GSM network comes online so that AT&T's GSM network is Phase II capable from day one.<sup>17</sup> Further, similar to VoiceStream's commitment, AT&T commits to meeting the accuracy requirements for handset-based solutions by October 1, 2003, or it will adopt

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<sup>8</sup> *Id.* at 17457, para. 44.

<sup>9</sup> *Id.* at 17457-58, paras. 44-45.

<sup>10</sup> AT&T Wireless Services, Inc. Amended E911 Phase II Report, CC Docket 94-102 (filed Dec. 9, 2000) (*AT&T Amended E911 Phase II Report*). Pursuant to the Commission's orders, on November 9, 2000, AT&T filed a E911 Phase II report in which AT&T stated that it was not in a position to choose between a handset-based and network overlay solution, but it committed to filing an amended report as soon as possible regarding its E911 Phase II location technology choice. Subsequently, it filed the *AT&T Amended E911 Phase II Report* on December 9, 2000.

<sup>11</sup> *Id.* at 2.

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 4-5.

<sup>15</sup> AT&T Wireless Services, Inc. Request for Waiver of the E911 Phase II Location Technology Implementation Rules, CC Docket No. 94-102 (filed April 4, 2001) (*AT&T Request*).

<sup>16</sup> *AT&T Request* at 1. See *E911 Fourth Memorandum Opinion and Order*.

<sup>17</sup> *AT&T Request* at 5.

another ALI methodology that comports with the Commission's requirements.<sup>18</sup>

10. AT&T asserts that its implementation plan to deploy E-OTD over its new GSM network is justified because E-OTD is the standardized location method for GSM, using an E-OTD solution would ensure rapid initial deployment of ALI capability, and accuracy of E-OTD is expected to improve over time.<sup>19</sup> AT&T argues that the Commission should approve its compliance plan and grant its request in light of these substantial customer and public safety benefits and because the Commission already granted a waiver to VoiceStream under similar circumstances.<sup>20</sup>

11. In the *AT&T Request*, AT&T also announced its selection of Mobile-Assisted Network Location Systems (MNLS) technology for its TDMA network, which, according to AT&T, would provide location accuracy of approximately 250 meters for 67 percent of calls and 750 meters for 95 percent of calls.<sup>21</sup> After numerous parties including public safety organizations and location technology vendors challenged AT&T's proposal to use MNLS for its TDMA network, AT&T filed a letter on September 17, 2001 amending its request for relief with respect to its TDMA network.<sup>22</sup> In lieu of implementing MNLS as its E911 Phase II network-based solution for its TDMA network, AT&T seeks permission to deploy either TruePosition's or Grayson Wireless' (Grayson) network overlay technologies. AT&T indicates that its TDMA solution proposed in the *AT&T September 17<sup>th</sup> Ex Parte* "is in lieu of MNLS and supersedes AWS's MNLS proposal set forth in its request and amplified in its August 6, 2001 letter."<sup>23</sup> While AT&T has submitted a compliance plan for the TDMA portion of its network, the timing of that submission did not permit Commission consideration. Accordingly, discussions have been initiated between AT&T and FCC Enforcement Bureau staff concerning possible consent decrees with the Commission to resolve this compliance issue.<sup>24</sup>

### C. Positions of Interested Parties

12. The *AT&T Request* was placed on public notice on April 6, 2001.<sup>25</sup> Comments largely supportive of AT&T's request for its GSM network were filed by handset manufacturers and wireless carriers, including Ericsson, Motorola, Nokia, Qwest, the Cellular Telecommunications and Internet Association (CTIA), and VoiceStream.<sup>26</sup> AT&T also submitted reply comments in support of its compliance plan and request for relief from the Commission's rules. Ericsson asserts that AT&T should be permitted to use E-OTD technology as its Phase II location solution because its circumstances are similar to VoiceStream's for E-OTD.<sup>27</sup> VoiceStream also supports AT&T's position that E-OTD at this

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<sup>18</sup> *Id.*

<sup>19</sup> *AT&T Request* at 4-5.

<sup>20</sup> *Id.* at 6.

<sup>21</sup> *Id.*

<sup>22</sup> Letter from Douglas I. Brandon, Vice President – External Affairs & Law, AT&T Wireless Services Inc., to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, CC Docket No. 94-102 (filed Sept. 17, 2001) (*AT&T September 17th Ex Parte*).

<sup>23</sup> *Id.* at 2.

<sup>24</sup> See Press Release, "FCC Acts on Wireless Carrier and Public Safety Requests Regarding Enhanced Wireless 911 Services" (rel. Oct. 5, 2001).

<sup>25</sup> Public Notice, "WTB Seeks Comment on Wireless E911 Phase II Waiver Request Filed by AT&T Wireless Services, Inc." DA 01-894 (rel. Apr. 6, 2001).

<sup>26</sup> Comments and reply comments filed in response to AT&T's request are listed in Appendix A.

<sup>27</sup> Ericsson Comments at 1-2.

time is the “best solution” for GSM operators.<sup>28</sup> Public safety organizations, namely, the Association of Public-Safety Communications Officials-International, Inc. (APCO) and the National Emergency Number Association (NENA), as well as Dr. John Brown of the City and County of San Francisco, EMS Section of the Department of Health, oppose AT&T’s compliance plan and request for relief. APCO and NENA argue that E-OTD does not meet the Commission’s accuracy requirements for a handset-based solution, nor has AT&T adequately demonstrated that this is the best solution.<sup>29</sup>

### III. DISCUSSION

13. We conclude that, based on the record, granting AT&T’s proposed implementation plan for its GSM network and its request for a temporary, conditional waiver, subject to the modifications specified below, is consistent with the Commission’s standards set out in the *E911 Fourth Memorandum Opinion and Order*. It is our understanding that AT&T is not currently offering service on its GSM network. In order to ensure that E-OTD is available in AT&T’s GSM network upon deployment of the GSM air interface, AT&T has required its vendors to be in compliance with the FCC’s rules on the date of deployment.<sup>30</sup>

#### A. AT&T Has Satisfied the Commission’s Standard for E911 Phase II Relief With Respect to Its Proposed Solution for Its GSM Network

14. *Plan That Is Specific, Focused, and Limited in Scope.* With respect to its GSM network, AT&T has presented an implementation plan and request that is specific, focused, and limited in scope. In its request, AT&T specifies the location technology it has selected to deploy in its GSM network, E-OTD, and identifies why its implementation plan is necessary to deploy this technology. Specifically, AT&T notes that it has selected E-OTD as its location technology because E-OTD is the standardized location method for GSM, it is included in the current GSM standards, and consequently, AT&T’s handset manufacturers can be expected to include E-OTD capability in all future GSM handsets.<sup>31</sup> Handset manufacturers Nokia and Motorola indicate that they plan to include E-OTD in future handsets.<sup>32</sup> AT&T reasons that using an E-OTD solution will ensure rapid initial deployment of ALI capability to all of AT&T’s GSM subscribers because AT&T will provide E-OTD-compatible handsets when AT&T’s network comes online, ensuring that AT&T’s GSM network is Phase II capable from day one.<sup>33</sup> As explained above, however, E-OTD’s accuracy currently fails to meet the handset-based accuracy requirements and therefore AT&T seeks temporary relief from those requirements. AT&T’s implementation plan and request is also focused and limited in scope. AT&T requests relief of the handset-based accuracy requirements until October 1, 2003, at which time AT&T asserts that either E-OTD will meet the handset-based accuracy requirements or AT&T will select another location technology solution that will meet the Commission’s standards. AT&T notes that the Commission previously granted similar relief to VoiceStream to allow VoiceStream to implement E-OTD technology.<sup>34</sup>

15. We conclude that AT&T’s proposal to deploy E-OTD simultaneously with the rollout of its GSM network represents a reasonable technology choice by which to meet the Commission’s Phase II

<sup>28</sup> VoiceStream Reply Comments at 2.

<sup>29</sup> APCO/NENA Comments at 5, 7.

<sup>30</sup> See Partial Response of AT&T Wireless Services, Inc. to Order of the Wireless Telecommunications Bureau, CC Docket No. 94-102 at 5 (May 30, 2001) (*AT&T Partial Response*).

<sup>31</sup> *AT&T Request* at 4.

<sup>32</sup> Motorola Comments at 3; Nokia Comments at 4.

<sup>33</sup> *AT&T Request* at 5.

<sup>34</sup> *Id.* at 6.

requirements. As the Commission stated in granting the VoiceStream waiver, GSM is used by carriers serving only a small percentage of U.S. wireless subscribers and the development of ALI capabilities for use by GSM carriers lagged behind that for carriers using other interfaces, such as AMPS, CDMA, and TDMA.<sup>35</sup> Although a year has passed since the Commission made that determination and it appears some new GSM location technologies may become available,<sup>36</sup> we find AT&T's proposal to use E-OTD technology to be a suitable Phase II solution. The majority of commenters agree with AT&T that E-OTD is the best currently available solution for AT&T's GSM network.<sup>37</sup> In its comments, Motorola states that E-OTD is "the most effective, efficient location technology that will be available in the Commission's accelerated timeframe and useable for Phase II E911 purposes."<sup>38</sup> Based on the record in this proceeding and our own review of the costs and benefits of the various technological approaches, we agree with these assessments.

16. ***As Close as Possible to Full Compliance.*** AT&T demonstrates it has come as close as possible to full compliance and taken concrete steps toward full compliance. As an initial matter, AT&T will ensure that all GSM handsets are E-OTD-capable from day one, thus preventing a legacy handset problem. To ensure that this happens, AT&T has obtained firm commitments from its handset manufacturers.<sup>39</sup> Therefore, unlike other carriers that select a handset-based solution, AT&T will ensure that 100 percent of all new digital handsets activated are ALI-capable and it will simultaneously achieve 100 percent penetration of ALI-capable handsets among its GSM subscribers from the time the GSM network is deployed.<sup>40</sup> AT&T's inability to meet the handset-based accuracy standards is offset by the fact that ALI-capable handsets will be rapidly deployed in the GSM network and that all GSM handsets will be ALI-capable. Therefore, AT&T's proposed solution is in many ways more akin to a network-based solution than a handset-based solution because no legacy handset problem will exist.

17. ***Clear Path to Full Compliance.*** Finally, AT&T presents a clear path to full compliance. Like VoiceStream, AT&T has committed to meeting the handset-based accuracy requirements by October 1, 2003, or it will implement another location solution that meets the Commission's rules.<sup>41</sup>

18. Although issues have been raised as to whether E-OTD can meet the Commission's accuracy requirements for handset-based solutions (50 meters for 67 percent of calls), evidence suggests that E-OTD can meet and ultimately exceed these requirements. As the Commission recognized in granting relief to VoiceStream, VoiceStream claims that the accuracy of E-OTD technology will improve over time, "as the software is refined, experience is gained, and additional cell sites are added to serve increasing traffic."<sup>42</sup> More recent evidence also supports that conclusion. In its comments, Nokia indicates that its internal tests confirm that E-OTD should be capable of meeting the requirement for

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<sup>35</sup> *E911 Fourth Memorandum Opinion and Order* at para. 56.

<sup>36</sup> Some network technology vendors have fairly recently announced they have adopted their technologies for GSM although it is not clear that these technologies have been tested in actual GSM networks. *See, e.g.*, Press Release, "Grayson Wireless Adds GSM Compatibility to Its Geometrix® Wireless E911 Caller Location System" (rel. Aug. 30, 2001). Moreover, since AT&T will be locating 100% of its GSM subscribers to the network accuracy standard immediately, it is unclear what benefit would be achieved were it to move to a network-based approach.

<sup>37</sup> *See, e.g.*, Ericsson Comments at 3-6; Motorola Comments at 2-3; Nokia Comments at 3-6; VoiceStream Reply Comments at 2.

<sup>38</sup> Motorola Comments at 3.

<sup>39</sup> *See AT&T Partial Response* at 5.

<sup>40</sup> AT&T Request at 5.

<sup>41</sup> *Id.*

<sup>42</sup> *E911 Fourth Memorandum Opinion and Order* at para. 59.

network-based solutions (100 meters for 67 percent of calls).<sup>43</sup> Furthermore, VoiceStream states in its reply comments that its trials in Houston yielded accuracy results of 75 to 80 meters for 67 percent of calls.<sup>44</sup> VoiceStream states that it is confident that the location accuracy of E-OTD will improve over time.<sup>45</sup>

19. APCO and NENA, however, criticize AT&T's selection of E-OTD technology as its ultimate solution because there is "no assurance that 50 meter accuracy will ever be achieved."<sup>46</sup> AT&T has committed to meeting the accuracy requirements by October 1, 2003, or if E-OTD is unable to meet those requirements, to adopting another ALI methodology that comports with the Commission's requirements.<sup>47</sup> APCO and NENA are concerned that AT&T has not suggested that it will be able to convert immediately to an alternative technology on October 1, 2003 should E-OTD fail to meet the handset-based accuracy requirements. This concern may not become a problem, however: AT&T expects that E-OTD's accuracy levels will improve over time, noting that E-OTD is expected to improve further in accuracy performance "as carriers such as AT&T advance along the path to the wider-band third generation ("3G") technologies."<sup>48</sup>

20. In sum, we find that AT&T has satisfied the standards set forth in the *E911 Fourth Memorandum Opinion and Order* for the grant of a temporary, conditional waiver of the Phase II rules. We conclude that, based on the record developed here, granting limited relief to AT&T for its deployment of E-OTD technology over its GSM network is consistent with the Commission's standard for the grant of relief from the Phase II rules, specifically that AT&T has demonstrated that special circumstances warrant a deviation from the general rule and that such a deviation will benefit public safety overall and the public interest. Although E-OTD will not initially satisfy the handset-based accuracy standards, there are substantial public safety benefits "including rapid initial deployment of ALI capability with a relatively brief transition to even more precise levels of accuracy."<sup>49</sup>

## **B. Additional Conditions of Relief Granted**

21. To assist in monitoring and enforcing each of the conditions imposed on AT&T, as set forth in summary form below, we also require that AT&T file Quarterly Reports with the Chief of the Enforcement Bureau and the Chief of the Wireless Telecommunications Bureau. Because mere assertions of compliance with the conditions of this order and with our rules are not sufficient to show compliance, these reports are intended to provide specific, verifiable information to allow us to monitor AT&T's progress closely and determine whether AT&T is in compliance with each of the benchmarks and conditions of this order and with other applicable provisions of the E911 rules, permitting prompt enforcement action if necessary.<sup>50</sup>

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<sup>43</sup> Nokia Comments at 5.

<sup>44</sup> VoiceStream Reply Comments at 2.

<sup>45</sup> *Id.*

<sup>46</sup> APCO/NENA Comments at 7.

<sup>47</sup> *AT&T Request* at 5.

<sup>48</sup> *Id.*

<sup>49</sup> *E911 Fourth Memorandum Opinion and Order* at para. 59.

<sup>50</sup> To the extent AT&T believes any of the required information is proprietary, it may file a request for confidential treatment pursuant to 47 C.F.R. § 0.459.

22. Specifically, the Quarterly Reports must include the following information:<sup>51</sup>

- The Report must include information on all pending Phase I and Phase II requests, including the name of the PSAP, the date the request was received by the carrier, whether or not AT&T considers it valid, and its status. To the extent any request has been pending for more than six months, AT&T must identify the specific reasons underlying the failure to provide the requested service, the steps AT&T has taken to resolve the problems, and the anticipated date of full completion of the work necessary to deliver the requested information to the PSAP in question. If AT&T believes there are questions concerning a PSAP's compliance with the conditions necessary for a valid Phase I or II request, such as its readiness to receive and utilize Phase I or Phase II information, it should identify specifically the question and the efforts it has undertaken, including the communications it has had with the PSAP, to resolve the question. Further, to help keep PSAPs informed, we direct AT&T to serve this report on APCO, NENA and NASNA.<sup>52</sup> In addition, the Commission will post this information on its website.<sup>53</sup> Because it is important for each individual PSAP with a pending Phase I or Phase II request to have access to this information, we authorize the Wireless Telecommunications Bureau to require any additional steps necessary to ensure PSAP access to this information.
- The Report must also include information on: current handset models being activated or sold that are E-OTD-capable; and important events affecting location-capable handset penetration levels, such as introduction of new handset models.
- Each Quarterly Report also must contain statements regarding whether AT&T has met each deployment benchmark falling due in the period immediately preceding the Quarterly Report,<sup>54</sup> and, if not, the reasons for its failure to comply. Each Quarterly Report must contain: (1) a statement of whether AT&T has commenced offering service on its GSM network and, if so, on what date it began offering its GSM service; (2) a statement of whether AT&T has begun selling and activating E-OTD handsets and, if so, on what date AT&T began selling and activating E-OTD handsets and whether E-OTD handsets sold and activated prior to October 1, 2003 meet the accuracy requirements of 100 meters for 67 percent of calls and 300 meters for 95 percent of calls; and (3) for the October 1, 2003 benchmark, a statement of whether all E-OTD handsets to be sold and activated after October 1, 2003 meet the handset-based accuracy standards of 50 meters for 67 percent of calls and 150 meters for 95 percent of calls.<sup>55</sup>
- AT&T must support each Quarterly Report with an affidavit, from an officer or director of AT&T,

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<sup>51</sup> We delegate authority to the Chiefs of the Wireless Telecommunications Bureau and the Enforcement Bureau to require AT&T to provide additional information in its Quarterly Reports, if necessary to evaluate AT&T's compliance with the terms and conditions of the relief granted, and its progress in deploying Phase I and Phase II E911 services.

<sup>52</sup> AT&T should serve the Executive Director of each organization as well as its counsel, to extent such counsel has been identified in the record in response to AT&T's request for relief.

<sup>53</sup> See <[www.fcc.gov/e911](http://www.fcc.gov/e911)>.

<sup>54</sup> To the extent AT&T cannot provide the information required under this paragraph in its next Quarterly Report following the respective benchmark, it must file with the Chief, Enforcement Bureau, a request for extension of time to file the required information. Such request must be filed as early as possible before the Quarterly Report filing date, but generally no later than 10 business days prior to the Quarterly Report filing date. The request must specify the specific reasons for the request.

<sup>55</sup> AT&T's Quarterly Reports are due February 1, May 1, August 1 and November 1 of each year, beginning February 1, 2002 and continuing through November 1, 2003. To the extent AT&T cannot provide any of the information required in its final report, it must file with the Chief, Enforcement Bureau, a request for extension of time to file the required information in accordance with the procedures set forth in n.54, *supra*.

attesting to the truth and accuracy of the report.

- To the extent AT&T anticipates that it will fail to satisfy any one of the conditions, it must advise the Commission of the problem. Seeking relief from that condition will not, in and of itself, insulate AT&T from possible enforcement in cases where AT&T has violated a condition of this Order.

23. AT&T's Quarterly Reports to the Commission should be the principal vehicle for providing the Commission with notice of anticipated problems but, to the extent unexpected problems arise affecting AT&T's ability to perform in the period between reports, AT&T should notify the Commission through a supplementary filing. This supplemental filing must include specific details regarding the problems AT&T has encountered affecting its ability to comply.

24. These Quarterly Reports by AT&T will assist the Commission and the PSAPs in monitoring its compliance not only with its Phase II implementation plan, but also with the Phase I deployment requirements of the rules. Information on Phase I deployment will allow us to assess whether this aspect of E911 deployment - itself a critical public safety benefit - is being achieved. The reports on Phase II deployment will assist in monitoring AT&T's compliance with both its implementation plan and the Phase II rules. The reports on handset deployment will assist us in assessing whether AT&T is in compliance with the requirements of its implementation plan.

25. AT&T is required to comply with each individual condition of this Order, including the reporting requirements set forth above. Consistent with the *E911 Fourth Memorandum Opinion and Order*, we note that the conditions imposed herein as part of the grant of Phase II relief have the same force and effect as a Commission rule itself. Each specific benchmark and Quarterly Report is a separate condition of the plan as approved. In addition, AT&T remains subject to all other requirements of the Commission's wireless E911 rules apart from those specifically modified in this Order. To the extent that AT&T fails to satisfy any condition or Commission rule, it will be subject to possible enforcement action, including but not limited to revocation of the relief, a requirement to deploy an alternative ALI technology, letters of admonishment or forfeitures. We will not entertain requests for additional relief that seek changes in the requirements, schedules, and benchmarks imposed herein absent extraordinary circumstances.

26. Moreover, the approval of AT&T's compliance plan does not alter AT&T's ultimate obligation to comply with the Phase II rules and the conditions of this relief. AT&T remains ultimately responsible for providing timely compliant Phase II service. If AT&T does not have compliant Phase II service available on the dates set forth herein, it will be deemed noncompliant and referred to the Commission's Enforcement Bureau for possible action. At that time, an assertion that a vendor, manufacturer, or other entity was unable to supply compliant products will not excuse noncompliance. However, a carrier's "concrete and timely" actions taken with a vendor, manufacturer, or other entity may be considered as possible mitigation factors in such an enforcement context.<sup>56</sup> As set forth above, AT&T is required to include in its Quarterly Reports a statement regarding whether it has met each accuracy milestone, and any other condition as set forth below, and, if not, the reasons for its failure to comply. As noted above, the report must be supported with an affidavit. To the extent that the Commission receives a complaint or otherwise has questions regarding the information in the report, or more generally AT&T's compliance, AT&T may be required to provide additional documentation to refute the complaint or respond to the Commission's questions. In the event that AT&T's Phase II solution unexpectedly fails to comply with the Phase II accuracy requirements, AT&T shall, as a condition, propose to deploy a solution that does comply with those requirements, as well as the other conditions of the Order and applicable

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<sup>56</sup> *E911 Fourth Memorandum Opinion and Order*, 15 FCC Rcd at 17458.

Phase II rules.<sup>57</sup>

### C. Summary of Conditional Relief Granted

27. We grant AT&T's request for waiver of the Phase II requirements to permit AT&T to deploy E-OTD technology for its GSM network only, subject to compliance with the specific conditions we set forth in the paragraphs below. Because E-OTD requires handset modifications in order to be effective, AT&T will be subject to all of the requirements applicable to handset-based technologies except as specifically waived or modified in this order.

28. First, initially AT&T's E-OTD-capable handsets must provide ALI with an accuracy of 100 meters/67 percent of calls and 300 meters/95 percent of calls. Thus, effective October 1, 2001, all of AT&T's E-OTD-capable handsets sold and activated must comply with this accuracy requirement.<sup>58</sup>

29. Second, all of AT&T's E-OTD-capable handsets sold and activated on or after October 1, 2003 must comply with an accuracy of 50 meters/67 percent of calls and 150 meters/95 percent of calls.<sup>59</sup>

30. Third, in the event that AT&T's solution fails to comply with the Phase II accuracy requirements by October 1, 2003, AT&T is required, as a condition, to propose a solution that does comply with those requirements as well as the other conditions of this Order and applicable Phase II rules.<sup>60</sup>

31. Fourth, AT&T must file Quarterly Reports, on its progress and compliance with the terms and conditions of the implementation plan and the wireless E911 rules, as set forth in paragraphs 21-26, *supra*.

## IV. PROCEDURAL MATTERS AND ORDERING CLAUSES

### A. Paperwork Reduction Analysis

32. This Order does not contain an information collection applicable to ten or more entities.

### B. Further Information

33. For further information, contact Jennifer Tomchin of the Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310 (voice) or (202) 418-1169 (TTY).

### C. Ordering Clauses

34. Accordingly, IT IS ORDERED that the AT&T petition for relief from the wireless E911 Phase II rules with respect to the use of E-OTD for its GSM network IS GRANTED effective October 1, 2001, to the extent indicated and subject to the conditions indicated herein.

35. IT IS FURTHER ORDERED that authority is delegated to the Chief of the Enforcement

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<sup>57</sup> As stated above, seeking relief will not, in and of itself, insulate AT&T from possible enforcement in cases where AT&T has violated a condition of this Order.

<sup>58</sup> This requirement applies only to new handsets, not to new activations of older models or refurbished handsets. *See, E911 Fourth Memorandum Opinion and Order*, 15 FCC Rcd at 17455, fn. 62 and 17453-4.

<sup>59</sup> *See* n.58, *supra*.

<sup>60</sup> Proposing such a revised implementation plan would not relieve AT&T from its obligations under the rules and its implementation plan or insulate AT&T from possible enforcement action. *See* paras. 22, 26, *supra*.

Bureau and the Chief of the Wireless Telecommunications Bureau to administer, clarify, and, as appropriate, modify the Quarterly Reports specified in this Order, including requiring the filing of additional information.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary